

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

APPALACHIAN VOICES,)	
CENTER FOR BIOLOGICAL)	
DIVERSITY, and)	
SIERRA CLUB,)	
)	
Plaintiffs,)	Case No. 3:23-cv-00604
)	
v.)	JUDGE RICHARDSON
)	MAGISTRATE JUDGE HOLMES
TENNESSEE VALLEY AUTHORITY,)	
)	
Defendant.)	
)	
)	

PLAINTIFFS’ MOTION TO CLARIFY THE APRIL 29, 2024 ORDER

Pursuant to the Court’s Scheduling Order, Doc. No. 23, Defendant Tennessee Valley Authority (“TVA”) lodged the administrative record on December 15, 2023. *See* Doc. No. 27. On February 13, 2024, Plaintiffs Appalachian Voices, Center for Biological Diversity, and Sierra Club (collectively, “Conservation Groups”) filed a motion to complete the administrative record. Doc. No. 28. Conservation Groups requested an order compelling TVA to include in the administrative record various materials, including two contracts (the “Precedent Agreement” and the “GE Contract”), records of expenses incurred pursuant to those contracts, and materials cited in the Final Environmental Impact Statement. Doc. No. 28. In its April 29, 2024 Order, Doc. No. 37, the Court partially granted Plaintiffs’ motion, reserving the dispute over Final Environmental Impact Statement materials for oral argument.

Conservation Groups believe the scope of the Order is unclear in two respects. First, it is not clear whether the Court has ordered TVA to produce complete, unredacted copies of the two contracts. Doc. No. 37 at 12, 15, 19. Second, while the Order granted Plaintiffs’ motion with

respect to the contracts, the Order does not expressly address records of expenses incurred in fulfillment of those contracts. Doc. No. 37 at 19.

For the reasons discussed in the accompanying memorandum, Conservation Groups respectfully move this Court to clarify that the April 29, 2024 Order requires TVA to produce the following for inclusion in the administrative record:

- (1) an unredacted copy of the Precedent Agreement, as amended;
- (2) an unredacted copy of the GE Contract; and
- (3) records of any expenses incurred in fulfillment of TVA's obligations under either the Precedent Agreement or the GE Contract that precede the Record of Decision.

Pursuant to Local Rule 7.01(a)(1), counsel for Conservation Groups has conferred with counsel for TVA, who represented that TVA is opposed to the relief requested.

DATE: May 3, 2024

Respectfully submitted,

s/ Amanda Garcia

Amanda Garcia, TN BPR No. 033773
O.W. “Trey” Bussey, TN BPR No. 037814
SOUTHERN ENVIRONMENTAL LAW CENTER
1033 Demonbreun Street, Suite 205
Nashville, TN 37203
Telephone: (615) 921-9470
Facsimile: (615) 921-8011
agarcia@selctn.org
tbussey@selctn.org

Gregory Buppert, TN BPR No. 024340¹
Deirdre Dlugoleski, VA Bar No. 99327,
admitted *pro hac vice*
SOUTHERN ENVIRONMENTAL LAW CENTER
120 Garrett Street, Suite 400
Charlottesville, VA 22902
Telephone: (434) 977-4090
Facsimile: (434) 993-5549
gbuppert@selcva.org
ddlugoleski@selcva.org

*Counsel for Appalachian Voices, the Center for Biological
Diversity, and Sierra Club*

¹ As required by Local Rule 83.01(d)(3), Mr. Buppert is a member of the Tennessee bar and has provided his Tennessee Board of Professional Responsibility number.

CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2024, I served a copy of the foregoing document on the following parties via the Court's electronic case filing system:

David Ayliffe, Director of Litigation
Frances Regina Koho, Attorney
Lane E. McCarty, Attorney
Sydney D. Nenni, Attorney
Office of the General Counsel
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, TN 37902

s/ Amanda Garcia

Amanda Garcia

SOUTHERN ENVIRONMENTAL LAW CENTER

*Counsel for Appalachian Voices, the Center
for Biological Diversity, and Sierra Club*